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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, April 25, 2017
85th Legislature, Number 56
The House convenes at 10 a.m.
Part One

Twenty-eight bills are on the daily calendar for second-reading consideration today. The bills analyzed or digested in Part One of today's Daily Floor Report are listed on the following page.

Dwayne Bohac
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Tuesday, April 25, 2017
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Part 1

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SUBJECT: Defining evidence in massage business nuisance suits

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Schofield

1 nay — Rinaldi

WITNESSES: For —James Caruthers, Children at Risk; Heather Cook, City of Houston Mayor's Office; Paul Colbert; (*Registered, but did not testify*: Jessica Anderson, Houston Police Department; Monty Wynn, Texas Municipal League)

Against — None

On — (*Registered, but did not testify*: Brad Bowman, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code, ch. 455 regulates massage therapy and other massage services.

Civil Practice and Remedies Code, sec. 125.0015 establishes that a person who maintains a place where people habitually go for certain enumerated illegal activities, including prostitution, promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution, and knowingly tolerates the activity, maintains a common nuisance.

Under sec. 125.004, proof that any of the listed activities is committed frequently is prima facie evidence that a defendant knowingly tolerated the activity. Evidence of arrests for those activities is admissible to show a defendant's knowledge of those activities.

DIGEST: Under CSHB 240, if a defendant in a common nuisance suit were a business or owner of a business that provided massage therapy or massage services in violation of Occupations Code, ch. 455, proof that those services occurred would be prima facie evidence that the defendant

knowingly tolerated the activity and that the business was habitually used for that activity.

A person bringing a nuisance abatement suit against a massage therapy business could request that a landowner or landlord provide the contact information of the business or business owner within seven days of the request.

The bill would take effect September 1, 2017, and would apply only to a cause of action that accrued on or after that date.

SUPPORTERS SAY:

CSHB 240 would create a prima facie evidence standard that would help cities bring nuisance abatement suits against illegal massage establishments acting as fronts for prostitution and human trafficking.

Two elements must be proved to establish that a person or business is maintaining a nuisance: knowingly tolerating the activity, and habitual frequency. Under current law, establishing the frequency of illegal activities has been difficult. The bill would address this by establishing that massage therapy or other massage services occurring in violation of the law were prima facie evidence that a defendant knowingly tolerated the activity and that the activity was habitual. By creating this evidentiary standard, the bill would strengthen a tool to be used against establishments linked to the sex trade, which can attract other criminal activity and drain law enforcement resources.

The bill would hold landlords accountable for providing contact information for business owners, expediting the receipt of this information and allowing for a quicker response by law enforcement. If landlords did not provide the required contact information in a timely manner, it could be an indication of knowingly tolerating an illegal business. By enabling an increase in abatement actions, CSHB 240 would lead to an accumulation of evidence that could help cities go after bad landlords through existing legal remedies.

The bill would not have a negative impact on legitimate massage businesses that were complying with the law. While a massage business that ran afoul of statutory licensing or health and safety requirements

might have no connection to the sex trade, it still might pose a risk to public health and safety and could be shut down by a Texas Department of Licensing and Regulation inspection.

OPPONENTS SAY:

CSHB 240 is overly broad because it would allow a city to bring a nuisance abatement claim against a massage business in violation of any law regulating massage therapy, even if the violation had nothing to do with illegal activity of a sexual nature. This bill could empower cities to unfairly target legitimate businesses that offered legal massages but were in violation of some other, less serious regulation.

Other provisions in the bill would address only small issues. The prima facie evidence of frequency would be minimally helpful because judges are well aware that these businesses can be fronts for prostitution. Requiring landlords to provide contact information within seven days also would not materially speed up resolution of these cases because they already must provide this information at the time a city files suit.

The bill would not address the underlying challenge to stopping illegal prostitution businesses because it would target business operators without changing landlords' level of liability. Landlords benefit from charging these businesses rent and also should be held accountable.

NOTES:

The committee substitute differs from the bill as filed in that CSHB 240 would allow parties bringing a nuisance abatement suit to request that a landowner or landlord provide contact information for the business or business owner. It also would narrow the prima facie evidence standard by specifying its application to a defendant who was a business or a business owner that provided massage therapy services in violation of ch. 455.

SUBJECT: Requiring students to file a degree plan at public junior colleges

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 8 ayes — Lozano, Raney, Alonzo, Button, Clardy, Howard, Morrison, Turner

0 nays

1 absent — Alvarado

WITNESSES: For — Charles Cook, Austin Community College; (*Registered, but did not testify*: Stephanie Reyes, San Antonio Chamber of Commerce; Miranda Goodsheller, Texas Association of Business; Stephanie Simpson, Texas Association of Manufacturers; Justin Yancy, Texas Business Leadership Council; Michael White, Texas Construction Association; James Thurston, United Ways of Texas)

Against — None

On — Melissa Henderson, Educate Texas; (*Registered, but did not testify*: Rex Peebles, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code, sec. 51.9685 requires a student enrolled in a bachelor's or associate's degree program at an institution of higher education to file a degree plan no later than the end of the second semester immediately following the semester in which the student has earned a cumulative total of 45 or more semester credit hours.

DIGEST: HB 655 would require a public junior college student pursuing either a bachelor's or an associate's degree to file a degree plan no later than the end of the second regular semester immediately following the semester in which the student earned a cumulative total of 30 or more semester credit hours. A student who began his or her first semester at the college with 30 or more credit hours would have to file by the end of the student's second semester at the college.

The bill would take immediate effect if finally passed by a two-thirds vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply to students enrolling in a public junior college for the 2018 fall semester.

SUPPORTERS SAY:

HB 655 would help junior college students choose their path to graduation by having them declare a degree plan earlier than currently required by law. At present, students at higher education institutions must file their degree plan after earning 45 total semester credit hours, but reducing this threshold to 30 total semester credit hours would help prevent credit loss, which occurs when students earn extraneous credits that do not count toward earning their degree or cannot be transferred to another institution. This can extend amount of time it takes to earn a degree or certificate, lower the chances of obtaining a bachelor's degree, and increase expenses and debt for the student.

The bill would cut down on waste by encouraging college students to select a path early in their college career. Texas has the highest percentage of students who complete their degree at a four-year university after transferring from a junior college, but many of these students lose credits when they transfer, costing students, families, and taxpayers an estimated $120 million per year in tuition and financial aid. Requiring a student to declare a degree plan earlier would help ensure a smooth transition with fewer lost credits, and would help the state achieve its graduation rate goal of having 60 percent of its 25 to 34 year olds hold a degree or certificate by 2030.

Most junior college students in Texas are part-time students, which means obtaining a degree can take a considerable amount of time. The bill would help keep these part-time students on track to receive their degree. The bill would not prevent junior college students from declaring a degree plan sooner than was required by the bill, and some public junior college may have requirements for declaring a degree plan that are more stringent than state law.

OPPONENTS SAY:

Although the bill would be a positive step by having students declare their degree plans earlier than is currently required, those pursuing an associate's degree of 60 semester credit hours might find that waiting as

long as two semesters after receiving 30 credits could be too late to avoid earning and paying for excess credits that might not count toward their degree. Requiring students to declare a degree plan even earlier could help avoid unnecessary waste.

SUBJECT: Funding child care expenses through compensatory education funds

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — (*Registered, but did not testify*: Michelle Smith, Arlington ISD; Monty Exter, Association of Texas Professional Educators; Chandra Villanueva, Center for Public Policy Priorities; Traci Berry, Goodwill Central Texas; Dana Harris, Greater Austin Chamber of Commerce; Leah Gonzalez, Healthy Futures of Texas; Chris Frandsen, League of Women Voters; Nakia Winfield, National Association of Social Workers-Texas; Kathleen Zimmerman, NYOS Charter School; Seth Rau, San Antonio ISD; Katie Mitten, Texans Care for Children; Dwight Harris, Texas American Federation of Teachers; Miranda Goodsheller, Texas Association of Business; Barry Haenisch, Texas Association of Community Schools; Lori Henning, Texas Association of Goodwills; Bill Grusendorf, Texas Association of Rural Schools; Amy Beneski, Texas Association of School Administrators; Grover Campbell and Jayme Mathias, Texas Association of School Boards; Gwen Daverth, Texas Campaign to Prevent Teen Pregnancy; Jennifer Allmon, Texas Catholic Conference of Bishops; David Dunn, Texas Charter Schools Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Jaime Puente, Texas Graduate Student Diversity; Ellen Arnold, Texas PTA; Colby Nichols, Texas Rural Education Association; Rebecca Flores, Texas School Alliance; Christy Rome, Texas School Coalition; Portia Bosse, Texas State Teachers Association; Aidan Utzman, United Way of Texas; and 15 individuals)

Against — None

On — (*Registered, but did not testify*: Leonardo Lopez, Texas Education Agency)

BACKGROUND:

Education Code, sec. 42.152 establishes that compensatory education allotment funds can be used to assist students who are educationally disadvantaged as measured by enrollment in the federal free or reduced-price lunch program or in a remedial support program because they are pregnant. School districts receive an adjustment to the basic allotment for each student served under compensatory education.

School districts generally must use these funds for instructional purposes including improving student performance on state assessments and enhancing high school completion rates for students who are at risk of dropping out of school.

DIGEST:

HB 223 would allow school districts to use compensatory education allotment funds to pay for providing child-care services or assisting with child-care expenses for at-risk students who were pregnant or who were parents.

Districts also could use compensatory education funds to pay for costs associated with the following services provided through a life skills program for students who were pregnant or who were parents:

- counseling and self-help programs;
- day care for the students' children on campus or at a nearby facility;
- transportation for students and their children to and from the campus or day care facility;
- instruction in child development, parenting, and home and family living skills; and
- assistance in obtaining government and community services, including certain health programs.

This bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 223 would give school districts more local control of compensatory education dollars, allowing them to better tailor the mix of programs and services provided to at-risk students who were pregnant or were parents. The bill would not require a district to provide any particular services. School districts simply would have more discretion in how they could use

compensatory education funding.

Parenthood is one of the leading reasons teen girls drop out of school. Finding and paying for dependable child care, managing the needs of pregnancy, and lacking access to support services are all major barriers to student parents. The bill would provide much-needed support to these at-risk students allowing them to access child care and other services.

Students who have dropped out of high school are more likely to be unemployed, engage in criminal activity, and be enrolled in Medicaid and other welfare programs. Children born to teens who have dropped out are more likely to drop out themselves, leading to generational poverty and significant economic costs for the state and society in the future. Using compensatory education dollars to support students who were parents or were pregnant would pay great dividends down the road and would be consistent with the purpose of these funds, which is to support students who are educationally disadvantaged and at risk of dropping out.

Many districts would like to offer these services but currently must pay for them out of general revenue funds, which often are already strained. Some districts have struggled to provide child care after the state ceased funding for the Life Skills Program for Student Parents grant program in fiscal 2012-13. Districts currently using general revenue funds for these programs could put those funds toward other purposes.

OPPONENTS SAY:

Compensatory education funds were designed to provide for accelerated reading instruction, mentoring, and other programs that help improve student performance and should not be diverted for child care expenses. Most districts do not have excess compensatory education funds, and a school that provided child care expenses and other support services might have to cut other programs designed to improve student performance.

School districts that wish to provide child care and associated services already have flexibility to do so through their general revenue funds. Districts also could help students apply for workforce commission grants or partner with outside sources to continue helping with child care.

SUBJECT: Removing state auditor review of groundwater management planning

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 8 ayes — Larson, Phelan, Ashby, Kacal, T. King, Lucio, Nevárez, Price

0 nays

3 absent — Burns, Frank, Workman

WITNESSES: For — Brian Sledge and Stacey Steinbach, Texas Water Conservation Association; (*Registered, but did not testify*: Buddy Garcia, Aqua Texas; Heather Harward, Brazos Valley GCD; Claudia Russell, Brush Country Groundwater Conservation District; Kent Satterwhite, Canadian River Municipal Water Authority; Trent Townsend, The Nature Conservancy; C.E. Williams, Panhandle Groundwater Conservation District; Jim Conkwright, Prairielands Groundwater Conservation District; Bill Stevens, Texas Alliance of Energy Producers; Sarah Schlessinger, Texas Alliance of Groundwater Districts; Kyle Frazier, Texas Desalination Association; Dean Robbins, Texas Water Conservation Association; Doug Shaw, Upper Trinity Groundwater Conservation District; Jim Allison, Victoria County Groundwater Conservation District)

Against — None

BACKGROUND: Water Code, sec. 36.1072 requires groundwater conservation districts to submit their management plans to the Texas Water Development Board (TWDB) for approval. Sec. 36.303 requires the Texas Commission on Environmental Quality to take certain actions if groundwater conservation districts fail to submit or receive TWDB approval of a management plan.

Section 36.302 makes groundwater conservation districts' management planning subject to review by the State Auditor's Office.

DIGEST: HB 180 would make groundwater conservation districts' management planning no longer subject to review by the State Auditor's Office (SAO). SAO could conduct a financial audit of a groundwater conservation

district if one were deemed necessary.

This bill would take effect immediately if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 180 would eliminate duplicative regulation of groundwater conservation districts' management planning activities by repealing provisions making them subject to review by the State Auditor's Office (SAO). Currently, both the Texas Commission on Environmental Quality (TCEQ) and the SAO oversee the management planning and activities of groundwater conservation districts, creating unnecessary regulatory overlap.

The bill would leave management planning oversight to TCEQ, which is better suited to evaluate the operations of groundwater conservation districts. It would allow the SAO to continue to review the financial aspects of groundwater conservation districts' operations, maintaining the fiscal integrity of these districts. The SAO is well equipped to evaluate the financial records of a political subdivision, but it does not have the expertise to review the development and implementation of such entities' planning documents.

HB 180 would make management planning more effective because planners would not construct goals and objectives purely with the intent of achieving a passing audit under the SAO's standards. Because the SAO is not equipped to properly evaluate groundwater conservation planning, it often applies rigid pass/fail quantitative standards that do not account for qualitative circumstances. In practice, this has led to the creation of management plans that are not as useful because they are designed with avoidance of failed audits in mind.

The bill also would end an inconsistent method of management review. Because of the large number of groundwater conservation districts in Texas, the SAO does not consistently audit all of them and instead only audits those it deems to be at highest risk of audit failure.

Not having to comply with SAO management reviews would relieve

bureaucratic pressure from groundwater conservation districts, which are often short-staffed and may lack the manpower or funding to comply easily with requests for program data.

OPPONENTS SAY:

SAO's comprehensive management reviews of groundwater conservation districts are important in ensuring that districts reach management plan goals. Technical assistance from TCEQ, the Texas Parks and Wildlife Department, and the Texas Water Development Board required under sec. 36.302(b) informs the audits and helps address any gaps in expertise.

SUBJECT: Changing regional water plans and establishing interregional council

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 8 ayes — Larson, Phelan, Ashby, Kacal, T. King, Lucio, Nevárez, Price

0 nays

3 absent — Burns, Frank, Workman

WITNESSES: For — C.E. Williams, Region A Water Group; Ken Kramer, Sierra Club-Lone Star Chapter; Bob Harden, Texas Association of Groundwater Owners and Producers; Imaad Khan, Texas Impact; Carlos Rubinstein; (*Registered, but did not testify*: Buddy Garcia, Aqua Texas; Kent Satterwhite, Canadian River Municipal Water Authority; Kate Zerrenner, Environmental Defense Fund; Ed McCarthy, Fort Stockton Holdings LP, Clayton Williams Farms, Inc.; Charles Flatten, Hill Country Alliance; Sarah Floerke Gouak, Lower Colorado River Authority; Ron Lewis, North Texas Municipal Water District; Jim Conkwright, Prairielands Groundwater Conservation District; Jay Howard, San Jacinto River Authority; Stephen Minick, Texas Association of Business; Justin Yancy, Texas Business Leadership Council; Kyle Frazier, Texas Desalination Association; Lori Olson, Texas Land Trust Council; Elizabeth Doyel, Texas League of Conservation Voters; Heather Harward, Texas Water Supply Partners; Trent Townsend, The Nature Conservancy)

Against — None

On — Bech Bruun and Matt Nelson, Texas Water Development Board

BACKGROUND: Water Code, sec. 16.053 requires the regional water planning group in each regional water planning area to prepare a regional water plan to provide for water conservation and drought response, using existing state and local water plans as a guide. The groups are required to submit a plan at least every five years.

DIGEST: HB 2948 would create an interregional planning council made up of

representatives from the 16 regional water planning groups and would modify the information that the groups are required to provide in their plans.

Interregional planning council. The bill would require the Texas Water Development Board (TWDB) to appoint an interregional planning council at an appropriate time in each five-year state water plan adoption cycle.

The purposes of the council would include improving coordination among regional water planning groups, facilitating dialogue on water management strategies, and sharing best practices.

TWDB would consider nominations submitted by each regional water planning group in making appointments to the council. Members would serve until a new state water plan was adopted. The council would be required to hold at least one public meeting and to prepare a report on the council's work for TWDB. The board would appoint the members of the initial council by September 1, 2018.

Regional water plan. The bill also would require regional water planning groups to include the following information in regional water plans:

- examples of unnecessary or counterproductive variations in specific drought response strategies;
- an assessment of the potential for aquifer storage and recovery projects, if the area has significant water needs;
- specific goals for daily water use per capita for municipal water user groups; and
- an assessment of the progress on encouraging cooperation between water user groups in the area.

The bill would specify that in conjunction with submitting a regional water plan, planning groups should make legislative recommendations for any changes that could improve the water planning process.

Prevailing legislation and effective date. HB 2948 would prevail over other legislation passed by the 85th Legislature. The bill would take immediate effect if finally passed by a two-thirds record vote of the

membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2948 would lead to better statewide water planning by creating an interregional planning council representing all 16 regional water planning groups. This council would increase interaction between regions, which currently meet only intermittently. These interactions would foster cooperation, coordination, and exchange of information across the planning groups, facilitating mutually beneficial strategies and large-scale projects.

The bill also would support intraregional cooperation by requiring a report on the progress of cooperation between water user groups in an area. Increased cooperation could reduce costly litigation between and within regional groups competing over the same water sources.

HB 2948 would expand the scope of information that regional water plans are required to provide to update the water planning process. Planning groups would have to report counterproductive drought response strategies, so regions that use the same water source could employ similar and more effective strategies.

The bill also would speed up the planning process in adopting innovative water management approaches by requiring groups to consider the potential for aquifer storage and recovery projects.

Regional water planning groups also would have to set gallons-per-capita-per-day goals, which would foster friendly regional competition to meet these goals and could incentivize the development of conservation projects.

HB 2948 also would advise regional water planning groups to make legislative recommendations for any relevant changes or improvements to water planning, expanding discussion between regions and the Legislature.

OPPONENTS SAY:

While HB 2948 would improve state and regional water planning processes, it also specifically should direct regional planning groups to

examine environmental needs, water loss control, and climate resilience.

SUBJECT: Prohibiting termination of certain employees prior to MMI certification

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 8 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, Metcalf, Schaefer, Wray

0 nays

1 absent — J. Johnson

WITNESSES: For — Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Mitch Landry, Texas Municipal Police Association (TMPA); (*Registered, but did not testify*: Jimmy Rodriguez, San Antonio Police Officers Association; Glenn Deshields, Texas State Association of Fire Fighters)

Against — None

On — David Reagan, Texas Municipal League Intergovernmental Risk Pool

BACKGROUND: Labor Code, ch. 408 governs the computation of workers' compensation benefits. Sec. 401.011 defines a compensable injury as an injury that arises in the course of employment for which compensation is payable. Maximum medical improvement (MMI) is defined as the earlier of:

- the date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated;
- the expiration of two years from the date on which income benefits begin to accrue; or
- for a person recovering from spinal surgery, another established date.

Sec. 408.0041 allows a medical examination to be requested to resolve

any question about the impairment caused by the compensable injury, the attainment of MMI, the ability of the employee to return to work, or other similar issues.

Local Government Code, ch. 143 allows cities with a population of 10,000 or more with a paid fire or police department to vote to adopt the provisions of that chapter and establish a firefighters' and police officers' civil service commission, which helps reach agreements on compensation and other conditions.

DIGEST:

CSHB 473 would prohibit a governmental entity from discharging, indefinitely suspending, or terminating from employment a peace officer, detention officer, county jailer, or firefighter based on an inability to perform associated duties due to injury before the person was certified as having reached maximum medical improvement, unless a doctor indicated that the person was unable to return to work.

An employer in violation would be liable for reasonable damages incurred by the employee in an amount up to $100,000, and the employee would be entitled to reinstatement. A current or former peace officer, detention officer, county jailer, or firefighter could sue an employer for the damages and reinstatement, and the burden of proof would be on the employee.

The bill would not apply to an employer that had adopted Local Government Code, ch. 143.

The bill would take effect September 1, 2017, and would apply only to a discharge, indefinite suspension, or termination from employment that occurred on or after that date.

SUPPORTERS SAY:

CSHB 473 would close a gap between the timelines some cities and counties have adopted to discharge, indefinitely suspend, or terminate injured public safety employees and the statutory timelines to certify maximum medical improvement (MMI). By bridging this gap, the bill would ensure that all employees were treated equally.

Currently, workers' compensation laws normally allow injured employees up to two years before a doctor makes a determination of MMI. However,

some municipalities make employment decisions for injured police officers and firefighters before a doctor has had an opportunity to certify MMI. These and other public safety personnel who put their lives on the line may find themselves unemployed without being given a chance to improve their medical condition. This bill would protect the jobs of those who paid a high price and give them a reasonable time to recover.

While some have raised concerns about capping damages in a suit, the bill would be a reasoned step in the right direction. It would allow employees the opportunity to sue for damages and reinstatement, which currently is not an available option. Current law already places limitations on the amount of liability for state and local governments, municipalities, and emergency services organizations in cases where sovereign immunity is waived.

OPPONENTS SAY:

CSHB 473 would place an unnecessary cap on the damages a person could receive in a suit. The cap would not align with the true costs in the types of cases to which the bill relates. For a severely injured person, medical costs could be greater than $100,000, in addition to family obligations and court and attorney fees associated with the suit. Most cities are part of a risk pool that insures against these types of cases, so there is no reason to cap damages.

NOTES:

The committee substitute differs from the filed bill in that CSHB 473 would:

- cap at $100,000 the amount of damages for which an employer would be liable in a suit; and
- allow an employer to discharge, indefinitely suspend, or terminate an employee if a doctor indicated that the person was unable to return to work.

According to the Legislative Budget Board's fiscal note, no significant fiscal impact to the state or counties is anticipated. The fiscal note states that a single damage award of $100,000 could have a significant impact in a small county but that it is not possible to estimate how many first responders might file claims for wrongful discharge.

SUBJECT: Establishing an oyster license buyback program

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 7 ayes — Frullo, Faircloth, D. Bonnen, Fallon, Gervin-Hawkins, Krause, Martinez

0 nays

WITNESSES: For — Shane Bonnot, Coastal Conservation Association Texas; Michael Ivic, Misho's Oysters; Johnny Halili, Oyster Advisory Workshop; Clifford Hillman, Oyster Industry; Raz Halili, Prestige Oyster; W. Brad Boney, Texas Outdoor Coastal Council; Lisa Halili; Buddy Treybig; Tracy Woody; (*Registered, but did not testify*: David Sinclair, Game Warden Peace Officers Association; Cyrus Reed, Lone Star Chapter Sierra Club; Marissa Patton, Texas Farm Bureau; John Shepperd, Texas Foundation for Conservation; Elizabeth Doyel, Texas League of Conservation Voters; Chloe Lieberknecht, the Nature Conservancy; John Burleson, Travis County Resistance)

Against — None

On — Brandi Reeder and Lance Robinson, Texas Parks and Wildlife Department; (*Registered, but did not testify*: Robin Riechers, Texas Parks and Wildlife Department)

BACKGROUND: SB 272 by Williams, enacted in 2005 by the 79th Legislature, created the oyster license moratorium under Parks and Wildlife Code, ch. 76, subch. F. It directed the Texas Parks and Wildlife Department (TPWD) to:

- implement an oyster license moratorium program that established criteria for issuing and renewing commercial oyster boat licenses;
- create an oyster license moratorium review board; and
- establish administrative procedures for the oyster license moratorium program and adopt rules for the program's administration.

Parks and Wildlife Code, sec. 76.119(a) establishes responsibility for code violations for captains and crew members of commercial oyster boats.

DIGEST:

HB 51 would require the Texas Parks and Wildlife Department (TPWD) to establish a license buyback program as part of its oyster license moratorium program. The Texas Parks and Wildlife Commission (TPWC) would have to establish criteria for the department to use for buying back the licenses. TPWD would have to consult with the oyster license moratorium review board on the criteria.

The bill would direct TPWD to retire each license purchased under the license buyback program until TPWC determined that management of the oyster fishery would allow reissue of those licenses through a lottery or auction. In making such a determination, TPWC would have to consider the social and economic viability of the oyster industry and receive input from the oyster license moratorium review board.

The TPWC would set aside an amount that was at least 20 percent of fees collected from the issuance of commercial oyster boat licenses that TPWD would have to set aside to buy back oyster boat licenses from willing sellers. The funds would be deposited in the game, fish, and water safety account. Money used for buying back licenses would not be subject to Government Code provisions on dedicated revenue. TPWD also could solicit and accept grants and donations of money or materials from public or private sources to fund the buyback program.

TPWD would have to report to the governor and the Legislature by November 1, 2020, on the administration and status of the license buyback program, including the biological, sociological, and economic effects of the program.

A proclamation by the TPWC on provisions related to the oyster license moratorium would prevail over any conflicting provisions contained within Parks and Wildlife Code, ch. 76 on oysters.

HB 51 also would allow the TPWC by proclamation to establish a vessel monitoring system for commercial oyster boats and would direct TPWD to consult with commercial oyster boat license holders on its creation

before the commission issued the proclamation.

The bill would make each individual on a commercial oyster boat, including the captain and crew, responsible for violating a law restricting the capture of undersized oysters.

The bill would take effect September 1, 2017, except that the provisions related to the license buyback program would take effect June 1, 2018.

SUPPORTERS SAY:

HB 51 would add the commercial oyster industry to the list of state commercial fishing license buyback programs, which are designed to stabilize a particular fishing industry and protect fisheries stocks.

In the past decade, the oyster industry has been devastated by disasters such as the Deep Water Horizon oil spill and Hurricane Ike, which destroyed half of the oyster reef in Galveston Bay. These disasters, along with a long drought and recent flooding, have led to an over-saturated oyster industry and overharvesting. The bill significantly would reduce the number of vessels fishing for oysters, which would help to prevent overharvesting and stabilize the industry. Preventing oyster overharvesting would help protect wild public reefs that provide nursery and predation refuge habitats for marine life, stabilize shorelines, enhance water quality, and reduce coastal erosion.

The bill would be modeled on successful license buyback programs in other fishing industries such as shrimp, crab, and finfish. For these industries, the programs were effective in allowing the fishery and their communities to voluntarily prevent overfishing and did not negatively impact harvest levels. Implementing a voluntary buyback program for oysters similarly would not impact harvest levels and would be a beneficial alternative to increased regulations.

HB 51 also would establish that each person on a vessel was responsible for the violation of harvesting undersized oysters. This would help to stabilize oyster populations and protect the reef by ensuring broken oyster shells and other debris, necessary for reef's growth, were less likely to be removed during fishing.

Because the preservation of oysters is a paramount concern of the oyster fishing industry, the bill would allow the Texas Parks and Wildlife Commission to establish a vessel monitoring system with tracking devices for boats to prevent fishing in closed waters. This essential management tool would benefit an oyster industry that is oversaturated and lacks accountability. Similar monitoring systems have been effective in other fishing industries, including the shrimp industry, and the monitoring program allowed by HB 51 would be needed to ensure oysters were not overharvested.

The buyback program under the bill would be completely voluntary, allowing license holders who no longer wanted their licenses to sell them back to the state at their discretion. Licenses would be sold through a fair market open bidding process initiated by the license holder, so the market would determine the price of the sale.

While other options to manage oyster resources have been proposed, HB 51 would implement recommendations that were developed and agreed upon during a long process involving varied stakeholders. Regulations on harvest limits and seasons already fall within the Texas Parks and Wildlife Department's (TPWD's) authority and have proven insufficient, creating a need for the measures included in the bill.

OPPONENTS SAY:

The license buyback program proposed by HB 51 could further limit the availability of oyster boat licenses. By creating this scarcity, the state could be increasing the value of existing licenses and inappropriately picking winners and losers in the marketplace, which could result in a monopoly of large fishing companies dominating the Texas oyster industry. There also would be no requirement that the Texas Parks and Wildlife Department (TPWD) pay fair market value for the licenses it buys back.

While government intervention in the oyster industry should be avoided, more appropriate methods for managing oyster populations are available if needed, including implementing regulations on harvest limits and seasons.

HB 51 also would create a vessel monitoring system that would micromanage private industry and could infringe on the privacy of oyster

boats and their captains and crew and affect the efficiency of their fishing operations.

OTHER OPPONENTS SAY:

While the proposed oyster license buyback program itself is commendable, in requiring TPWD to establish the program, consideration should be given to ensuring that the state does not buy back licenses at a premium from individuals who may have purchased them speculatively without a vested interest in the oyster industry.

NOTES:

A companion bill, SB 1556 by Kolkhorst, was referred to the Senate Committee on Agriculture, Water, and Rural Affairs on March 21.

SUBJECT: Allowing certain brewpubs that self-distribute to sell wine on premises

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: *After recommitted:*
6 ayes — Kuempel, Guillen, Goldman, Hernandez, Herrero, S. Thompson

0 nays

3 absent — Frullo, Geren, Paddie

WITNESSES: *March 27 public hearing:*
For — (*Registered, but did not testify*: Rick Donley, The Beer Alliance of Texas)

Against — None

On — Jon Lamb, Texas Craft Brewers Guild; (*Registered, but did not testify*: Thomas Graham, Texas Alcoholic Beverage Commission)

BACKGROUND: Alcoholic Beverage Code, ch. 74 governs the activities of brewpubs and authorizes them to sell their products on their premises to consumers and, under certain circumstances, to make sales to distributors, wholesalers, and retailers

Alcoholic Beverage Code, sec. 74.08(a) governs self-distribution to retailers. It allows brewpubs that sell alcoholic beverages manufactured only on the brewpub's premises to sell their malt liquor or ale to retailers and others to whom certain wholesalers may sell. It also allows these brewpubs to sell beer to certain retailers and to others to whom certain wholesalers may sell beer for shipment and consumption outside of Texas.

DIGEST: CSHB 2097 would allow brewpubs that also held a wine and beer retailer's permit and whose sale of beer, ale, or malt liquor was restricted to their own production of these products made on their premises to

self-distribute their products to certain retailers and certain other qualified persons. Current language restricting these brewpubs' sales of alcoholic beverages to those manufactured only on the brewpub's premises would be eliminated.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 2097 would clear up confusion over whether brewpubs with beer and wine retailers permits whose sales of beer, ale, and malt liquor consist only of their own products and who self-distribute may also sell wine on their premises.

Current law can be read as restricting self-distribution to brewpubs whose on-site sales consist solely of their own beer, ale, or malt liquor made on their premises. Under this interpretation, these brewpubs could not sell wine produced by others. However, under another interpretation of current law, these brewpubs can have on-site sales of only beer, ale, and malt liquor that they produce and they also may make on-site sales of wine produced by others.

The bill would make it clear that these brewpubs also may sell wine produced by others. Brewpubs have been operating under both interpretations without any issues so there is no reason for a restriction on sales of wine by self-distributing brewpubs that sell on their premises only their own beer, ale, and malt liquor. Brewpubs with the appropriate wine and beer retailer's permit should be free to sell wine to meet the demands of their customers. While some customers come to brewpubs to sample the establishment's products, others in a party may prefer wine, and there is no reason to restrict these sales. The bill would not change any of the other restrictions that brewpubs operate under and would not change their self-distribution authority.

OPPONENTS SAY:

No apparent opposition.

NOTES: HB 2097 as filed would have restricted self-distribution by brewpubs to those whose sale of alcoholic beverages consisted only of beer, ale, and malt liquor manufactured on the brewpub's premises.

SUBJECT: Creating the National Museum of the Pacific War museum fund

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 7 ayes — Frullo, Faircloth, D. Bonnen, Fallon, Gervin-Hawkins, Krause, Martinez

0 nays

WITNESSES: For — Mike Hagee, Admiral Nimitz Foundation; (*Registered, but did not testify*: Matt Long and Angela Smith, Fredericksburg Tea Party; Doris Spraggins)

Against — None

On — (*Registered, but did not testify*: Corey Crawford, Texas Historical Commission)

BACKGROUND: HB 2025 by Hilderbran, enacted by the 79th Legislature in 2005, enabled the Texas Historical Commission to enter into an agreement with the Admiral Nimitz Foundation to manage or financially support the National Museum of the Pacific War.

Government Code, sec. 442.054 established a separate account within the general revenue fund for the National Museum of the Pacific War consisting of transfers, operational revenue, certain grants and donations, and income earned on investments in the account.

DIGEST: HB 1492 would repeal Government Code, sec. 442.054 and create the National Museum of the Pacific War museum fund as a fund outside of the state treasury. Administration of the fund would be the responsibility of the Texas Historical Commission, but the commission could contract with the Admiral Nimitz Foundation for that purpose.

The fund would consist of admissions revenue from operations of the museum, donations made to the Texas Historical Commission for the museum, and interest and income from the assets of the fund. Money in

the fund could be spent without appropriation and only to administer, operate, preserve, repair, expand, or otherwise maintain the museum.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 1492 would establish the National Museum of the Pacific War museum fund outside the state's treasury, providing more flexibility in how the Admiral Nimitz Foundation collects and spends its funds. The foundation currently may not comingle the admissions revenue that is sent to the general revenue fund with other revenue from the foundation. Requirements related to keeping these funds separate have prevented the foundation from offering online ticket sales or packaged ticket deals. Moving the museum's fund outside the state treasury would allow the foundation to maximize the museum's revenue potential and increase the number of visitors.

Creating a fund outside of the state treasury would reduce accounting inefficiencies that result from the museum's funds being included in general revenue. Currently, the funds must be deposited into a State of Texas account at a local bank and transferred to the state, where the admissions revenue is reconciled with the number of admissions tickets sold. It is then sent back to the local account, where it is transferred into another bank account used solely for operations. This bill would remove this duplicative process and allow the museum to keep all its money in one location, saving both the museum and the state time and money.

The Texas Historical Commission would retain oversight of the new fund, ensuring the money was used for its intended purpose. The bill would merely change where the funds were held; it would not reduce transparency or oversight.

While HB 1492 has a fiscal note, this is because money located in the general revenue fund would be moved to an outside account. The decrease in revenue would correspond with a decrease in expenditures. The bill would not create any new costs and would not require additional money to be spent on the museum.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A companion bill, SB 694 by Buckingham, was reported favorably from the Senate Committee on Natural Resources and Economic Development on April 3.

According the Legislative Budget Board's fiscal note, HB 1492 would have a negative impact of $2.7 million in general revenue related funds through fiscal 2018-19. A like amount would be deposited to a new fund outside of the treasury.

SUBJECT: Recovering costs for legal services from certain defendants

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Hunter, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Canales

WITNESSES: For — (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; John Dahill, Texas Conference of Urban Counties; Joseph Green, Travis County Commissioners Court)

Against — (*Registered, but did not testify*: Darwin Hamilton)

On — Emily Gerrick, Texas Fair Defense Project

BACKGROUND: Under Code of Criminal Procedure, art. 26.05(g), a judge may order defendants to offset the costs of legal services while their charges are pending or as part of court costs assessed if they are convicted. This order may occur if the judge determines that a defendant has the resources to pay all or part of the costs incurred for legal services.

Art. 26.04(m) outlines what courts may consider when determining if a defendant is indigent.

DIGEST: HB 2071 would allow a judge to order certain defendants at any time during their sentence of confinement or period of probation to pay the unpaid portion of legal services provided to them if the judge determined they had the financial resources to pay the additional portion. The bill would apply to defendants who at their time of sentencing or placement on probation did not have the financial resources to pay the maximum amount for legal services provided to them.

In determining whether a defendant had the financial resources for unpaid legal services, the judge could only consider the information a court or

designee may consider when determining indigence under Code of Criminal Procedure, art. 26.04(m).

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2071 would ease the financial burden counties bear prosecuting criminal cases while still protecting the defendant's right to due process. Defendants should bear the costs of their defense if they are able to do so. The fact that a defendant could not pay at one point in time should not mean that counties should never be able to seek reimbursement if circumstances change. The bill would apply only to a defendant who was incarcerated or on probation, and once the sentence was completed, courts would lose the authority to collect on any windfalls to previously indigent defendants.

Defendants on community supervision are required to submit pay stubs and other documentation to their probation officers as proof that they are working faithfully and supporting their dependents. Probation officers already collect the information that courts would need to determine a defendant's ability to pay as part of their routine duties, so this bill would not create any additional burdens on courts or county resources.

OPPONENTS SAY:

HB 2071 could lead to an unfair imbalance between counties and defendants. If defendants had to pay more after an increase in their ability to pay, they also should be allowed to pay less after a decrease. Currently, if a defendant can pay initially but subsequently loses a job, there is no way for that person to seek relief prior to a revocation hearing. This is especially difficult for defendants who are on probation and facing employment barriers as a result of their convictions. Taking money from individuals who are already in a vulnerable position is counterproductive to rehabilitation and reform.

The bill would give no guidance to judges or counties on how to track the defendant's ability to pay. Currently, indigence is determined at a specific point in time, usually at sentencing, after the defendant has filled out a financial information questionnaire about his or her immediate financial situation. The bill would place the burden of continuously monitoring defendants' financial situation on courts that are already overburdened and

underfunded.

NOTES: A companion bill, SB 527 by Birdwell, was scheduled for a public hearing of the Senate Committee on Criminal Justice today.

SUBJECT: Designating July 7 as Fallen Law Enforcement Officer Day

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 7 ayes — Frullo, Faircloth, D. Bonnen, Fallon, Gervin-Hawkins, Krause, Martinez

0 nays

WITNESSES: For — (*Registered, but did not testify*: William Mills and Ricky Scaman, Sheriff's Association of Texas)

Against — None

DIGEST: HB 3042 would designate July 7 as Fallen Law Enforcement Officer Day, which would be regularly observed by appropriate ceremonies.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY: HB 3042 would recognize the ultimate sacrifice made by Texas law enforcement officers killed in the line of duty. Since records have been kept, nearly 1,900 law enforcement officers have died in Texas while protecting the public. These officers deserve to be honored with a special day.

The date of Fallen Law Enforcement Officer Day, July 7, commemorates the day in 2016 when five law enforcement officers were killed in Dallas during a sniper attack, the deadliest single event for police in the United States since the terrorist attacks on September 11, 2001. Designating July 7 as Fallen Law Enforcement Officer Day would help our state remember that tragic event, in addition to the many sacrifices made each year by law enforcement officers.

OPPONENTS SAY: No apparent opposition.

NOTES: A companion bill, SB 798 by Huffines, was approved by the Senate on March 13.

SUBJECT: Repealing licensing requirement for for-profit legal service contracts

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: *After recommitted:*
6 ayes — Kuempel, Guillen, Goldman, Hernandez, Herrero, S. Thompson

0 nays

3 absent —Frullo, Geren, Paddie

WITNESSES: *March 27 public hearing:*
For — Kathy Pinson, LegalShield; (*Registered, but did not testify*: Mark Vane, Gardere Wynne Sewell LLP)

Against — None

On — (*Registered, but did not testify*: Brian Francis, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code, ch. 953 regulates for-profit legal service contract companies. Sec. 953.156 requires a legal service contract to be filed with the Texas Department of Licensing and Regulation executive director before it is marketed, sold, offered for sale, administered, or issued in Texas. Any subsequent endorsement or attachment to the contract must also be filed with the executive director before the endorsement or attachment is delivered to legal service contract holders.

Business and Commerce Code, ch.17, subch. E establishes the Deceptive Trade Practices-Consumer Protection Act, under which false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are considered unlawful and subject to action by the Office of the Attorney General's Consumer Protection Division.

DIGEST: CSHB 2113 would remove the requirement that any for-profit legal service contract or subsequent endorsement or attachment be filed with

the Texas Department of Licensing and Regulation executive director before it was marketed, sold, offered for sale, administered, or issued. Any violation of the law for legal service contracts would be considered a deceptive trade practice actionable under the Deceptive Trade Practices-Consumer Protection Act.

The bill would remove the TDLR executive director's authority to regulate for-profit legal service contract companies and would repeal provisions governing prepaid legal service contract programs, requirements relating to legal service contract company records, registration and financial security, and TDLR's disciplinary authority over for-profit legal service contract companies.

The bill would take effect September 1, 2017, at which time any pending proceeding under the repealed provisions would be dismissed.

SUPPORTERS SAY:

CSHB 2113 would reduce unnecessary regulation by eliminating the Texas Department of Licensing and Regulation's (TDLR's) legal service contracts program. Because the program engages in little enforcement activity, this would pose minimal risk to consumers, who would be protected under the Deceptive Trade Practices-Consumer Protection Act from violations of the law.

Since 2003, when the regulation of legal service contracts was transferred from the Texas Department of Insurance to TDLR, there has been only one minor enforcement case. Legal service contracts have been deregulated in much of the country already, and this bill would fulfill a recommendation made by TDLR to simplify or eliminate laws that do not support health and safety or ease licensing, including regulation of for-profit legal service contracts.

This bill would allow TDLR to focus on areas where its time and resources could be more productively directed.

OPPONENTS SAY:

CSHB 2113 would cost the state more than $2 million in lost licensing revenue through fiscal 2018-19 without identifying a way to replace it.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of $2 million on general revenue related funds

through fiscal 2018-19 in lost fee revenue.

A companion bill, SB 1499 by Zaffirini, was reported favorably by the Senate Business and Commerce Committee on April 18.

SUBJECT: Authorizing physician assistants to provide medical services as volunteers

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Price, Sheffield, Arévalo, Burkett, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

2 absent — Coleman, Collier

WITNESSES: For — Matt Boutte, Texas Academy of Physician Assistants; (*Registered, but did not testify*: Jaime Capelo, Lisa Jackson, and Catherine Judd, Texas Academy of Physician Assistants; Dan Finch, Texas Medical Association; David Reynolds, Texas Osteopathic Medical Association; Irtiza Sheikh)

Against — None

BACKGROUND: Occupations Code, sec. 204.204 requires a physician assistant to be supervised by a supervising physician. Section 204.202 specifies that the practice of a physician assistant includes providing medical services delegated by a supervising physician that are within the education, training, and experience of the physician assistant. Under sec. 204.2045, which governs services performed during a disaster, the supervision and delegation requirements do not apply to uncompensated medical tasks performed by a physician assistant during a state or federal disaster.

Civil Practice and Remedies Code, ch. 84 establishes the Charitable Immunity and Liability Act of 1987.

DIGEST: HB 1978 would specify that the supervision and delegation requirements for physician assistant services did not apply to medical tasks performed by the physician assistant as a volunteer for a charitable organization or at a public or private event, including a religious event, sporting event, community event, or health fair. The bill would amend the title of Occupations Code, sec. 204.2045 to read "Volunteer care and services performed during a disaster."

A physician assistant performing medical tasks as a volunteer for a charitable organization or at a public or private event would be acting within the scope of the physician assistant's license for purposes of immunity under provisions of the Texas Charitable Immunity and Liability Act of 1987 governing volunteer liability.

The bill would take effect September 1, 2017, and its provisions would apply only to services performed on or after that date.

SUPPORTERS SAY:

HB 1978 would extend to physician assistants the same liability protections other health professionals receive when volunteering their services. Many health professionals, including physicians, nurses, advanced practice nurses, and dentists are afforded liability protection by the state when they volunteer without compensation for certain charitable purposes, but physician assistants do not have the same protection. This gap in current law thwarts the ability of physician assistants to give back to their community by providing safe, quality care to their fellow citizens.

By allowing physician assistants to have liability protection similar to that of other health professionals, the bill would increase the volunteer pool available to nonprofits, faith-based organizations, and local health care organizations that need non-physician volunteers for indigent health care clinics or to staff a first aid tent during a charity 5K race, for example. Physician assistants are willing to volunteer for these events but do not want to risk the liability of potential court costs for providing medical care outside the scope of their license. The bill would clarify that physician assistants are acting within the scope of their license when providing services as a volunteer.

Physician assistants currently have liability protection during a state emergency or federal disaster, but not when volunteering for a charitable organization or event. By adding physician assistants to the list of health professions afforded liability protection under the Charitable Immunity and Liability Act, the bill would recognize that physician assistants are a valuable asset to Texas communities.

OPPONENTS

No apparent opposition.

SAY:

NOTES: A companion bill, SB 2194 by Buckingham, was referred to the Senate Health and Human Services Committee on March 29.

SUBJECT: Licensing and regulation of a journeyman industrial electrician

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: *After recommitted:*
5 ayes — Kuempel, Guillen, Goldman, Hernandez, S. Thompson

0 nays

4 absent — Frullo, Geren, Herrero, Paddie

WITNESSES: *March 20 public hearing:*
For — Jon Fisher, Associated Builders and Contractors of Texas; Michael Gremillion, ISC Constructors LLC, Associated Builders and Contractors of Texas

Against — Thornton Medley, United Steelworkers District Council 13-1;

On — Renea Beasley, Independent Electrical Contractors of Texas; Brian Francis, Texas Department of Licensing and Regulation; (*Registered, but did not testify*: Sacha Jacobson)

BACKGROUND: Occupations Code, ch. 1305 establishes the Texas Electrical Safety and Licensing Act, which regulates electricians. Sec. 1305.003(a)(14) exempts from the chapter electrical work performed at a business that operates a chemical plant, petrochemical plant, refinery, natural gas plant, natural gas treating plant, pipeline, or oil and gas exploration and production operation by a person who works solely for and is employed by that business.

DIGEST: CSHB 1698 would require an applicant for a license as a journeyman industrial electrician to have at least 8,000 hours of on-the-job training as a licensed electrical apprentice under the supervision of a master electrician and would require the applicant to pass a journeyman industrial electrician examination administered under the Texas Electrical Safety and Licensing Act.

The bill would define a "journeyman industrial electrician" as a person who engages in electrical work exclusively at a business that operates a chemical plant, petrochemical plant, refinery, natural gas plant, natural gas treating plant, pipeline, or oil and gas exploration and production operation. Only activities performed at the locations listed in the bill could be included in the required examination for a journeyman industrial electrician license.

The bill would require journeyman industrial electricians to complete the four hours of annual continuing education required of other electricians for license renewal.

The bill would transfer responsibility for licensing electricians, including journeymen industrial electricians, from the Texas Department of Licensing and Regulation to the Texas Commission of Licensing and Regulation (TCLR), and would require TCLR to establish rules to implement the bill's changes by September 1, 2018.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 1698 would remove a regulatory burden by providing a more relevant and efficient licensing alternative for electrical apprentices who work exclusively in industrial settings. Journeyman licensing currently is targeted toward commercial and residential knowledge. If an electrical apprentice chooses to become licensed as a journeyman, the apprentice must become proficient in areas that may not be relevant for work in an industrial setting. The bill would provide journeyman licensing based on training and testing relevant to the industrial work an individual may plan to do. A journeyman industrial electrician would then be restricted to working in an industrial setting under the license.

The bill would not add a new licensing requirement. Electrical apprentices working in the industrial field would not be required to obtain this license. Instead, the bill would offer another, more appropriate path for electricians to gain the journeyman license status that reflected their expertise in the field.

OPPONENTS SAY:

CSHB 1698 could add a regulatory burden for electricians who work in industrial settings and currently are exempt from licensing. While the licensing would not be mandatory, it could signal a shift toward a more burdensome industry standard. It is not necessary to create a new license for industrial electricians who may already be certified and respected within their field and have been doing this work for many years.

NOTES:

CSHB 1698 differs from the bill as filed in that the committee substitute would:

- require the journeyman industrial electrician to pass an examination administered under the Texas Electrical Safety and Licensing Act;
- require that the examination be based on subjects relevant to that industry;
- extend the date by which TCLR would adopt licensing rules from January 1, 2018, to September 1, 2018; and
- not require an applicant to complete a certification program.

SUBJECT: Requiring water conservation measures in certain correctional facilities

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 11 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman

0 nays

WITNESSES: For — (*Registered, but did not testify*: Kate Zerrenner, Environmental Defense Fund; Myron Hess, National Wildlife Federation; Christopher Mullins, Sierra Club Lone Star Chapter; Jess Heck, SouthWest Water Company; Joshua Houston, Texas Impact)

Against — None

On — Bryan Collier, Texas Department of Criminal Justice

BACKGROUND: Under Water Code, sec. 13.146, the Texas Commission on Environmental Quality must require a retail public utility that provides potable water services to 3,300 or more connections to submit a water conservation plan or other water conservation strategies to the Texas Water Development Board. Some parties have observed that, particularly in drought conditions, correctional facilities use a substantial amount of water but need not adhere to the same conservation measures as area businesses or residents.

DIGEST: CSHB 965 would allow a retail public utility to require the operator of a correctional facility receiving the utility's water or sewer services to comply with the utility's water conservation measures. The bill would apply only to a correctional facility operated by or under contract with the Texas Department of Criminal Justice.

A correctional facility would not be required to comply with a new or renewed water conservation measure if the operator submitted to the utility a written statement from the department stating that the measure would endanger health and safety or unreasonably increase operating

costs.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

The committee substitute differs from the filed in that CSHB 965 would:

- apply only to a correctional facility operated by or under contract with the Texas Department of Criminal Justice; and
- exempt a correctional facility from complying with a water conservation measure that the department reported would endanger health and safety or increase costs unreasonably.